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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. PATENT & TRADEMARK OFFICE

Applicant: Konrad Herrman et al.

Serial No.: 09/830,518

Filing Date:

Title: POLYCYCLIC PYRIMIDINE -2,4 (1H, 3H)- DIONES WITH FUNCTIONALIZED ALKYL RESIDUES AT THE 1- AND/OR 3 -POSITION(S); METHODS FOR THEIR SYNTHESIS AND PHARMACEUTICAL PREPARATION

Examiner:

Art Unit:

International Application No.: PCT/EP00/08126

International Filing Date: 21 August 2000

Priority Date: 26 August 1999

March 8, 2002

Attorney's Docket No.: NNG201

**PETITION TO ACCORD THE CORRESPONDENCE FILING DATE
AND TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.10(c)**

Commissioner for Patents
Box PCT
PCT Legal Examiner
Bryn Tung - PCT Legal Examiner
Washington, D.C. 20231

SIR:

This is in response to the Decision mailed on November 14, 2001 and to the Decision mailed on February 12, 2002 in the above-identified patent application and stating that this application is abandoned as to the United States of America because the applicants did not timely file the basic national fee.

This Petition in part reiterates the contents of the Petition filed on November 28, 2001.

The applicants respectfully submit that there is a discrepancy between the filing date accorded by the U.S. Patent and Trademark Office of April 27, 2001 relative to the correspondence and the date of deposit of April 26, 2001 as shown by the "date-in" on the "Express Mail" mailing label.

In order to fulfill the basic requirements necessary to enter the U.S. national phase under the Patent Cooperation Treaty and under 35 U.S.C. §371, the following documents were mailed by Express Mail, label No. **TB173 617 191 US**, to the U.S. Patent and Trademark Office on **April 26, 2001**:

- Form PTO-1390,
- Copy of the International PCT Application No. PCT/EP00/08126, as filed,
- English Translation of PCT Application No. PCT/EP00/08126,
- "Preliminary Amendment" dated April 23, 2001,0
- "Request to Accept Patent Application for Entering U.S. National Phase 35USC §371" with "Claim of Priority",
- Form PTO-1449,
- copy of the International Search Report with copies of references cited therein,
- credit card information and authorization form (Form PTO-2038)

Photocopies of the following documentary evidence that supports a submission of the aforementioned documents to the U.S. Patent and Trademark Office on **April 26, 2001** are enclosed with the present petition:

- 1) Transmittal Letter including Express Mail Certification executed by Thomas Heymann on April 26, 2001 and including the "Express Mail" mailing number,
- 2) "Express Mail" mailing label No. TB173 617 191 US showing the "date-in" as "4/26/01",
- 3) "Express Mail" corporate Account Mailing Statement by the United States Postal Service, for the account of the undersigned attorney, for the period 04/21/01 – 05/18/01, showing that the correspondence with the associated with "Express Mail" mailing label No. TB173 617 191 US, was deposited with the United States Postal Service on April 26, 2001.

According to 37 CFR § 1.10(a), any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS, where the date of deposit with the USPS is shown by the "date-in" on the Express Mail mailing label or other official USPS notation.

The date of deposit of the instant mailing was April 26, 2001.

Since the applicants deposited their correspondence, including the national basic fee necessary for entry into the U.S. national phase under the Patent Cooperation Treaty and under 35 U.S.C. §371, with the USPS on April 26, 2001 as confirmed by the USPS, it is believed that said basic national fee was timely received by the U.S. Patent and Trademark Office. Consequently, it is believed that the present application should not have been abandoned.

The applicants petition herewith the Commissioner for Patents to accord the correspondence mailed by "Express Mail" on April 26, 2001 a filing date as of the "date-in" on the "Express Mail" mailing label, i.e. "4/26/01" and to withdraw the holding of abandonment of present application.

Alternatively, the applicants petition to revive the present application as unavoidably abandoned in view of the circumstances set forth above.

Consideration of the present petition is respectfully requested.

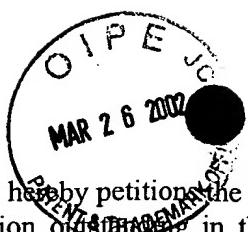
Respectfully submitted,

Konrad Herrman et al.

By:

Horst M. Kasper,
their attorney
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Tel.: (908) 526-1717; Fax: (908) 526-6977
Reg.: 28,559; Docket No.: NNG201

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COPY

(X) The applicant hereby petitions the Commissioner of Patents and Trademarks to extend the time for response to any Office Action outstanding in the above captioned matter as necessary to avoid abandonment of the application. Please charge my deposit account No.11-0224 in the amount required to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to the above account.

(X) The Commissioner is hereby authorized to charge any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18 or any additional fees which may be required during the entire pendency of the application, or credit any overpayment, to Acct. No.11-0224. A duplicate copy of this sheet is enclosed. If and only if account funds should be insufficient, immediately contact our associate, Lisa Zumwalt, at (703)415-0579, who will pay immediately to avoid deprivation of rights.

() Please charge my Account No.11-0224 in the amount of \$_____. A duplicate copy of this sheet is enclosed.

A signature or signatures required for the above recited document(s) is (are) provided herebelow. Such signature(s) also provide(s) ratification for any required signature appearing to be defective in the above recited document(s).

Handwritten signature of Horst M. Kasper.

Horst M. Kasper, 13 Forest Drive, Warren, N.J.07059
Reg. No. 28,559 Tel.(908)757-2839

EXPRESS MAIL CERTIFICATION: I hereby certify that the correspondence attached hereto is being deposited with the USPS "Express Mail Post Office to Addressee" on the date indicated below and is addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231,

Deposit Date: 26 APR 2001 "Express Mail mailing No": TB173617191US

Signature: Thomas Heymann Date: 26 APR 2001

*%Pci1:d:trans1(NNG201T1(Aprl 26, 2001(tm